

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 3784 OF 2005

JUDGMENT:

This appeal is directed by the insurance company against the order dated 19.04.2005 in O.P.No.435 of 2000 passed by the Motor Accidents Claims Tribunal-cum-II Additional District Judge (FTC), Adilabad (for short 'the Tribunal), whereby the Tribunal granted compensation of Rs.2,25,000/- with costs and interest @ 9% per annum from the date of petition till the date of realization on account of the death of K.Gouru caused in a motor vehicle accident occurred on 21.10.1999 at about 07.00 a.m., while the deceased and others were proceeding in a jeep bearing No.AP1 7402 from Mamda to Ponkal Village and when the said jeep reached near Ponkal X Road, when the driver could not control the vehicle went outside the left road margin and turned turtle, due to which the deceased fell down and sustained injuries, and shifted to Government Hospital, Nirmal and that after first aid on the advice of doctors, the deceased shifted to super specialty hospital and later admitted in Government Hospital, Malakpet and from there the deceased was again referred to Gandhi Hospital, Secunderabad, but admitted in Manasa Nursing Home, as against the claim of Rs.2,00,000/-.

Learned counsel for the appellant contended that the deceased was traveling in the jeep as unauthorized passenger and that when the claimants are majors they are not entitled for the compensation and that the tribunal erred in awarding

compensation more than the amount claimed and that the compensation and the interest granted by the tribunal are very high and hence prayed to allow the appeal.

A perusal of the material available on record, having regard to facts and circumstances of the case, the order passed by the tribunal is well considered on all aspects and needs no interference by this Court. In so far as the enhancement of compensation granted by the Tribunal more than the claim, this Court is of the considered view that in view of the decision of the apex Court in **Nagappa v Gurudayal Singh and others**¹ there cannot be any embargo upon restriction restricting the compensation amount on par with the claim. In view of the M.V. Act is a beneficial legislation as held by the Apex Court in several judgments, on the facts and circumstances of the case, compensation can be granted more than the claim amount. With regard to the contention that the claimants are not entitled for the compensation as they are majors cannot be accepted since they are all legal heirs and dependants, which was not denied. With regard to the other contention that the deceased is an unauthorized passenger was also not tested by the appellant before the tribunal. In the absence of not adducing any evidence by the claimants and not marking any documents in support of their case, it is not open for the appellant to develop his case in the present appeal. Therefore, the appeal is liable to be dismissed.

¹ (2003)2 SCC 274

Accordingly, MACMA is dismissed confirming the order dated 19.04.2005 in O.P.No.435 of 2000 passed by the Motor Accidents Claims Tribunal-cum-II Additional District Judge (FTC), Adilabad. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 12.09.2019
kvrn

